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R277. Education, Administration.

R277-481. Charter School Oversight, Monitoring and Appeals.

R277-481-[2]1. Authority and Purpose.

~~[A.]~~ (1) This rule is authorized ~~[under]~~ by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities;

(c) 20 U.S.C. Sec[~~tion~~]. 8063[~~(3)~~], which directs the Board to submit specific information prior to charter school's receipt of federal funds; and

(d) Section 53A-1a-509, which requires the Board to make rules:

(i) specifying the timeline for a charter school to remedy a deficiency; and

(ii) ensuring a charter school complies with a charter agreement.

~~[B.]~~ (2) The purpose of this rule is to:

(a) establish procedures for oversight and monitoring of a charter school for compliance with its charter agreement; and

(b) provide appeals criteria and a process for a charter school found out of compliance with chartering entity findings placed on warning or probation.

R277-481-[1]2. Definitions.

~~[A. "Board" means the Utah State Board of Education.]~~

~~[B.]~~ (1) "Charter[ing entities] school authorizer" means [entities that authorize a charter school under] the same as that term is defined in Section 53A-1a-501.3[~~(3)~~].

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32 ~~]~~~~C.~~ ~~"Charter schools" means schools acknowledged as~~
33 ~~charter schools by chartering entities under Sections~~
34 ~~53A-1a-515, 53A-1a-521, and this rule or by the Board under~~
35 ~~Section 53A-1a-505.]~~

36 ~~[D.]~~ (2) "Charter~~[school]~~ agreement~~[(charter~~
37 ~~agreement)]"~~ means the ~~[terms and conditions for the operation~~
38 ~~of an approved charter school. The charter school agreement~~
39 ~~shall be maintained at the USOE and is considered the final,~~
40 ~~official and complete agreement]~~same as that term is defined
41 in Section 53A-1a-501.3.

42 ~~[F.]~~ (3) "Charter school governing board" means the board
43 designated ~~[by]~~in the charter ~~[school]~~agreement to make
44 decisions for the governance and operation of the charter
45 school.

46 ~~[E.]~~ (4) "~~[Charter school d]~~Deficienc~~[ies]~~y" means~~[-the~~
47 ~~following information]:~~

48 ~~[(1)]~~a) a charter school is not satisfying~~[-financial,~~
49 ~~academic or operational]~~ obligations as ~~[required]~~specified in
50 ~~[its]~~the charter agreement;

51 (b) a charter school violates federal or state law or
52 regulation, rule, Board directive, charter school authorizer
53 policy, or charter school authorizer directive;

54 ~~[(2)]~~c) a charter school is not providing required
55 documentation after being placed on warning ~~[status]~~or
56 probation;

57 ~~[(3)]~~d) compelling evidence of fraud or misuse of funds by
58 a charter school governing board member~~[s]~~ or employee~~[s]~~.

59 (5) "Fraud or misuse of funds" ~~[need not rise to the~~
60 ~~minimal standard. It may]~~includes:

61 (a) failure to properly account for funds received at the
62 school;

63 (b) failure to follow regularly established accounting

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64 and receipting practices; or

65 (c) failure to provide data, financial records, or
66 information as requested by the ~~[State Charter School~~
67 ~~Board]~~ charter school authorizer or the Board.

68 ~~[G.]~~ (6) "Probation" means a formal process ~~[and time~~
69 ~~period]~~ initiated in writing by the charter school authorizer
70 during which a charter school is permitted to demonstrate its
71 full compliance with its charter agreement and all applicable
72 laws, rules, [and] regulations, and directives.

73 ~~[H. "State Charter School Board" means the board~~
74 ~~designated in Section 53A-1a-501.5.~~

75 ~~—— I. "Superintendent" means the State Superintendent of~~
76 ~~Public Instruction as designated under Section 53A-1-301.~~

77 ~~—— J. "USOE" means the Utah State Office of Education.]~~

78 ~~[K.]~~ (7) "Warning~~[-status]~~" means an informal ~~[status in~~
79 ~~which a school is placed through written notification from the~~
80 ~~USOE for the school's failure to maintain compliance with its~~
81 ~~charter agreement, applicable laws, rules or~~
82 ~~regulations]~~ process initiated in writing by the charter school
83 authorizer staff, Superintendent, or USOE during which a
84 charter school receives a corrective action plan to
85 demonstrate compliance with the identified deficiency.

86 **R277-481-3. State Charter School Board Oversight, Minimum**
87 **Standards, and Consequences.**

88 ~~[A.]~~ (1) ~~[The State Charter School Board]~~ A charter school
89 authorizer shall provide direct oversight to [the] a charter
90 school[s for which it is the chartering entity, including
91 requiring all charter schools to] it authorizes by:

92 ~~([1])~~ a) [comply with their] having a written, signed
93 charter agreement[s] containing clear and meaningful
94 expectations for measuring charter school quality[-];

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([2]b) annually reviewing a charter school governing board's compliance with its charter agreement[s], as maintained by the [USOE] charter school authorizer;

([3]c) ~~[regularly review other matters specific to effective charter school operations, including]~~ providing a comprehensive written review of governing board performance at least once every five years; and

([4]d) auditing and investigat[e]ing claims of fraud or misuse of public assets or funds.

~~[B. All charter schools authorized by the State Charter School Board shall also meet the following minimum standards:~~

~~—— (1) charter schools shall have no unresolved material findings, financial condition findings or repeat significant findings in the school's independent financial audit, federal single audit or USOE audits;~~

~~—— (2) charter schools shall maintain a minimum of 30 days cash on hand or the cash or other reserve amount required in bond covenants, whichever is greater;~~

~~—— (3) charter schools shall have no violations of federal or state law or regulation, Board rules or Board directives;~~

~~—— (4) charter schools shall have all teachers properly licensed and endorsed for teaching assignments in CACTUS; and~~

~~—— (5) charter school governing boards shall ensure all employees and board members have criminal background checks on file.]~~

~~[C.]~~ (2) (a) ~~[Warning status~~

~~—— (1)] A charter school [that fails to meet any of the minimum standards or a significant number of performance standards]~~ with an identified deficiency may be placed on warning[-status] and notified in writing by the charter school authorizer staff, Superintendent, or the USOE.

(b) Written notification shall identify the deficiency

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127 and include:

- 128 (i) a corrective action plan;
129 (ii) a timeline for compliance; and
130 (iii) an appeal criteria and process.

131 ~~((2)c)~~ While a charter school is on warning~~[-status]~~, the
132 charter school may seek technical assistance from the charter
133 school authorizer or USOE staff to remedy any deficienc~~ies~~y.

134 ~~[D. Probation status]~~

135 ~~[[1]3)(a) [If any minimum standard or a significant~~
136 ~~number of performance standards has not been met by an~~
137 ~~assigned date following designation of warning status, the~~
138 ~~State Charter School Board shall notify the school in writing~~
139 ~~of the specific minimum standard(s) the school did not meet.]A~~
140 charter school with an identified deficiency may be placed on
141 probation and notified in writing by the charter school
142 authorizer.

143 ~~[(2) Based on the State Charter School Board's review of~~
144 ~~the charter school's noncompliance, progress and response to~~
145 ~~technical assistance, the State Charter School Board may place~~
146 ~~the school on probation for up to one calendar year following~~
147 ~~the designation of warning status.~~

148 ~~— (3) Upon placing a school on probation, the State Charter~~
149 ~~School Board shall set forth a written plan outlining those~~
150 ~~provisions in the charter agreement, applicable laws, rules~~
151 ~~and regulations with which the school is not in full~~
152 ~~compliance. This written plan shall set forth the terms and~~
153 ~~conditions and the timeline that the school shall follow in~~
154 ~~order to be removed from probation.]~~

155 (b) Written notification shall identify the deficiency
156 and include:

- 157 (i) the terms and conditions for removal from probation;
158 (ii) a timeline for compliance; and

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(iii) an appeal criteria and process.

~~((4)c) [If the school complies with the written plan in a timely manner, the State Charter School Board]~~A charter school authorizer shall remove [the]a charter school from probation if the charter school meets the terms and conditions for removal from probation within the designated timeline.

~~((5)d) [While a school is on probation, it shall be required to satisfy certain requirements and conditions set forth by the State Charter School Board.] If [the]a charter school fails to satisfy [specific requirements]the terms and conditions [by a date established by the State Charter School Board, the State Charter School Board may terminate the school's charter]~~for removal from probation within the designated timeline, the charter school authorizer may take action under Sections 53A-1a-509 and 53A-1a-510.

~~((6)e) While a charter school is on probation, the charter school may seek technical assistance from the charter school authorizer or USOE staff to remedy any deficiency.~~

~~[(7) The State Charter School Board may, for good cause, or if the health, safety, or welfare of the students at the school is threatened at any time during the probationary period, terminate the charter immediately.]~~

R277-481-4. Charter School Governing Board Compliance with Law.

~~[A. The Board may review or terminate the charter based upon factors that may include:~~

~~—— (1) failure to meet measures of charter school quality which includes adherence to a charter agreement required and monitored by chartering entities; or~~

~~—— (2) charter school deficiencies; or~~

~~—— (3) failure of the charter school to comply with federal~~

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190 ~~or state law or regulation, Board rules or Board directives.]~~

191 ~~[B.]~~ (1) If a ~~[charter school's]~~ charter agreement
192 conflicts with applicable federal or state law or rule~~[7]~~:

193 (a) the charter agreement shall be interpreted to require
194 compliance with ~~[such]~~ the law or rule; and

195 (b) all other provisions of the ~~[school's]~~ charter
196 agreement shall remain in full force and effect.

197 ~~[C. A charter school governing board may amend its~~
198 ~~charter agreement by receiving approval from its chartering~~
199 ~~entity consistent with Section 53A-1a-508.]~~

200 ~~[D.]~~ (2) ~~[Chartering entities]~~ A charter school authorizer
201 shall obtain approval ~~[by]~~ from the Board before amending a
202 charter agreement~~[s]~~ specific to:

203 ([1]a) a change~~[s]~~ to a charter school's mission and
204 purpose;

205 ([2]b) charter school waiver~~[s]~~ from ~~[Board~~
206 ~~administrative]~~ rule;

207 ([3]c) an expansion~~[s]~~ of charter school student
208 enrollment;

209 ([4]d) an expansion~~[s]~~ of a charter school grade level~~[s]~~
210 that ~~[will]~~ may put a student~~[s]~~ in a different weighted pupil
211 unit grade level categor~~[ies]~~y; and

212 (5)e) a revolving loan~~[s]~~.

213 ~~[E.]~~ (3) A charter school shall notify the Board and ~~[the~~
214 ~~chartering entity]~~ its charter school authorizer of a~~[ny and~~
215 ~~all]~~ lawsuit~~[s]~~ filed against the charter school within 30
216 days of the filing of the lawsuit.

217 ~~[R277-481-5. Chartering Entity Oversight and Monitoring.~~

218 ~~— A. Local school board and institutions of higher~~
219 ~~education chartering entities shall:~~

220 ~~— (1) visit a charter school at least once during its first~~

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~~year of operation in order to ensure adherence to and implementation of approved charter and to finalize a review process;~~

~~—— (2) visit a charter school as determined in the review process;~~

~~—— (3) provide written reports to a charter school after the visits that set forth strengths, deficiencies, corrective actions, timelines and the reason for charter termination, if applicable; and~~

~~—— (4) audit and investigate claims of fraud or misuse of public assets or funds.~~

~~—— B. Chartering entities shall notify the Board within 20 days of charter school deficiencies that initiate corrective action by chartering entities.]~~

R277-481-[6]5. Charter School Financial Practices[~~and Training~~].

~~[A. Charter school business administrators shall attend USOE required business meetings for charter schools.~~

~~—— B. Charter school governing board members and school administrators shall be invited to all appropriate Board-sponsored training, meetings, and sessions for traditional school district financial personnel.~~

~~—— C. The Board shall work with other education agencies to encourage their inclusion of charter school representatives at training and professional development sessions.]~~

~~[D.]~~ (1) (a) A charter school shall appoint a business administrator ~~[consistent with]~~ with the same duties as a business administrator described in Section ~~[s]~~ 53A-3-[302 and] 303.

(b) The business administrator shall ~~[be responsible for the submission of all]~~ submit financial and statistical

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252 information required by the Board.

253 ~~[E.]~~ (2) The ~~[Board]~~ Superintendent may interrupt a
254 disbursement~~[s]~~ to a charter school~~[s]~~ for failure to comply
255 with financial and statistical information required by
256 ~~[law]~~ statute or ~~[Board]~~ rule[s].

257 ~~[F. Charter schools shall comply with the Utah State~~
258 ~~Procurement Code, Title 63G, Chapter 6.]~~

259 ~~[G.]~~ (3) A ~~[C]~~ charter school[s are] is not eligible for
260 necessarily existent small schools funding under Section 53A-
261 17a-109~~[(2)]~~ and Rule R277-445.

262 ~~**[R277-481-7. Remediying Charter School Financial Deficienciencies.**~~

263 ~~—— A. Upon receiving credible information of charter school~~
264 ~~deficiencies, the chartering entity shall immediately direct~~
265 ~~an independent review or audit through the charter school~~
266 ~~governing board.~~

267 ~~—— B. The chartering entity or the Board through the~~
268 ~~chartering entity may direct a charter school governing board~~
269 ~~or the charter school administration to take reasonable action~~
270 ~~to protect state or federal funds consistent with Section 53A-~~
271 ~~1a-510.~~

272 ~~—— C. The chartering entity or the Board may:~~

273 ~~—— (1) allow a charter school governing board to hold a~~
274 ~~hearing to determine financial responsibility and assist the~~
275 ~~charter school governing board with the hearing process;~~

276 ~~—— (2) immediately terminate the flow of state funds;~~

277 ~~—— (3) recommend cessation of federal funding to the school;~~

278 ~~—— (4) take immediate or subsequent corrective action with~~
279 ~~employees who are responsible for charter school deficiencies~~
280 ~~consistent with Section 53A-1a-509; or~~

281 ~~—— (5) any combination of the foregoing (1), (2), (3) and~~
282 ~~(4).~~

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~~———— D. The recommendation by the chartering entity shall be made within 20 school days of receipt of complaint of deficiency(ies).~~

~~———— E. The chartering entity may exercise flexibility for good cause in making recommendation(s) regarding deficiency(ies).~~

~~———— F. The Board shall consider and affirm or modify the chartering entity's recommendation(s) for remedying a charter school's deficiency(ies) within 60 days of receipt of information from the chartering entity.~~

~~———— G. In addition to remedies provided for in Section 53A-1a-509, the chartering entity may provide for a remediation team to work with the school.]~~

R277-481-[8]6. Appeals Criteria and Procedures.

~~[A.]~~ (1) Only an operating charter school, an authorized charter school ~~[that has been recommended for]~~ awaiting approval [to]from the Board, or a charter school applicant ~~[that has met State Charter School Board]~~ meeting requirements for review by the full ~~[State Charter School Board]~~ charter school authorizer, may appeal~~[- chartering entity]~~ administrative decisions or recommendations~~[- to the Board]~~.

~~[B.]~~ (2) The following ~~[chartering entity]~~ administrative decisions may be appealed:

(a) to the Board:

~~([1])~~ i) termination of a charter agreement;

~~([2])~~ ii) denial of a proposed amendment[s] to a charter agreement;

~~([3])~~ iii) denial or withholding of funds from a charter school governing board[s]; and

~~([4])~~ iv) denial of a charter agreement[-]; and

(b) to the charter school authorizer:

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314 (i) warning designation;
315 (ii) probation designation;
316 (iii) removal of a charter school director, finance
317 officer, or governing board member;
318 (iv) appointment of an interim director or mentor; and
319 (v) proposed termination of a charter agreement.
320 ~~[C. Appeals procedures and timelines]~~
321 ~~([1]3)~~ The [chartering entity] charter school authorizer
322 shall, upon taking any of the administrative actions described
323 in this section:
324 (a) provide written notice~~[of denial]~~ to the charter
325 school ~~[or approved charter school]~~ governing board and
326 administrator; and
327 (b) provide written notice of appeal rights and timelines
328 to the charter school governing board chair or authorized
329 agent~~;~~ ~~and~~
330 ~~— (c) post information about the appeals process on its~~
331 ~~website and provide training to charter school governing board~~
332 ~~members and authorized agents regarding the appeals~~
333 ~~procedure].~~
334 ~~([2]4)~~ Within 14 calendar days of a charter school
335 authorizer administrative action, [A]a charter school
336 governing board~~[chair]~~ or authorized agent~~[(appellant)]~~ may
337 submit a written appeal to:
338 (a) the [State] Superintendent, [within 14 calendar days
339 of the chartering entity administrative action] if appealing to
340 the Board; or
341 (b) the charter school authorizer.
342 ~~([3]5)~~ (a) The Superintendent shall~~[, in consultation with~~
343 ~~Board Leadership,]~~ review the written appeal and determine if
344 the appeal addresses an administrative decision by a
345 ~~[chartering entity]~~ charter school authorizer.

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(b) If the Superintendent ~~[and Board Leadership]~~ determines ~~[that the]~~an appeal is appropriate, the Board ~~[H]~~leadership shall designate three to five Board members and a hearing officer, who is not a Board member, to act as an objective hearing panel.

(~~[4]~~6) The hearing officer, in consultation with the Superintendent, shall set a hearing date and provide notice to all parties, including the ~~[chartering entity]~~charter school authorizer and charter school authorizer staff.

(~~[5]~~7) The ~~[H]~~hearing shall be held no more than 45 days following receipt of the written appeal.

(~~[6]~~8) The hearing officer shall establish procedures that provide fairness for all parties, which may include:

(a) a request for parties to provide a written explanation of the appeal and related information and evidence;

(b) a determination of time limits and scope of testimony and witnesses;

(c) a determination for recording the hearing;

(d) preliminary decisions about evidence; and

(e) decisions about representation of parties.

(~~[7]~~9) The hearing panel shall make written findings and provide an appeal recommendation to the Board no more than ~~[10]~~ten calendar days following the hearing.

(~~[8]~~10) The Board shall take action on the hearing report findings at the next regularly scheduled Board meeting.

(~~[9]~~11) The recommendation of the chartering entity shall be in place pending the conclusion of the appeals process, unless the Superintendent in ~~[his]~~the Superintendent's sole discretion, determines that the ~~[chartering entity's]~~charter school authorizer's recommendation or failure to act presents a serious threat to students or an imminent threat to public

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378 property or resources.

379 (~~[10]~~12) All parties shall work to schedule and conclude
380 hearings as fairly and expeditiously as possible.

381 (~~[11]~~13) The Board's acceptance or rejection of the
382 hearing report is the final administrative action on the
383 issue.

384 **KEY: charter schools, oversight, monitoring, appeals**

385 **Date of Enactment or Last Substantive Amendment: [~~February 7,~~**
386 **~~2014~~]2015**

387 **Notice of Continuation: [~~August 2, 2013~~]2015**

388 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**
389 **~~53A-1-401(3); [53A-1a-501.3; 53A-1a-515; 53A-1a-521; 53A-1a-~~**
390 **~~505; 53A-1a-501.5; 53A-1a-510;]53A-1a-509[; 53A-1-301; 53A-3-~~**
391 **~~302; 53A-3-303; 53A-17a-109]~~**